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Appointments to fill vacancies in subsidiary organs and other appointments: appointment of ad litem judges of the United Nations Dispute Tribunal

Appointment of ad litem judges of the United Nations Dispute Tribunal

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly a report of the Internal Justice Council concerning the appointment of ad litem judges of the United Nations Dispute Tribunal for the consideration and action of the General Assembly.

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Report of the Internal Justice Council

1. By its resolution 63/253, the General Assembly decided that three ad litem judges would be appointed to the United Nations Dispute Tribunal for a period of one year with effect from 1 July 2009. By its decision 64/553, the General Assembly decided to extend the terms of the three ad litem judges for an additional one-year term of office beginning on 1 July 2010. By its resolution 65/251, the General Assembly further extended the terms of office of the three ad litem judges for an additional six months, from 1 July 2011 until 31 December 2011. The initial appointments, and the first extension, were each followed by a formal act of appointment by the General Assembly. Such an act is now necessary in respect of the second extension.

2. The Internal Justice Council was established by the General Assembly in its resolution 62/228 to "help to ensure independence, professionalism and accountability in the system of administration of justice" (General Assembly resolution 62/228, para. 35). Pursuant to paragraph 37 (b) of this same resolution, the Internal Justice Council is to provide its views and recommendations to the General Assembly on suitable candidates for vacancies in the United Nations Dispute Tribunal and the United Nations Appeals Tribunal.

3. The Internal Justice Council contacted the three ad litem judges who are currently serving on the United Nations Dispute Tribunal to determine whether they would accept the additional period of appointment. Judge Jean-François Cousin (France) and Judge Nkemdilim Amelia Izuako (Nigeria) have indicated their willingness to continue to serve for an additional six-month period. The Internal Justice Council thus recommends their appointment for the further six-month term approved by the General Assembly in resolution 65/251.

4. Judge Marilyn Kaman (United States) has indicated to the Council that she is unable to be considered for reappointment for the additional six-month term. Judge Kaman was afforded leave of absence from her permanent judicial appointment until 30 June 2011, but is not able to obtain a further leave of absence for six months. Regretfully, given the institutional needs of the United Nations Dispute Tribunal, the Internal Justice Council is unable to recommend two or three candidates for this vacancy and does not do so. The factors that prevent the Internal Justice Council from recommending candidates include the short period for the appointment (six months); the fact that it is nearly three years since the Internal Justice Council conducted a selection process for judges for the United Nations Dispute Tribunal; the length of time and cost involved in running a proper selection process; and the fact that a new judge would require time to become familiar with the operation and jurisprudence of the system, which would necessarily significantly impair the judge's productivity given the short period of the appointment.

Signed by the members of the Internal Justice Council and submitted to the Secretary-General on 4 May 2011 for transmission to the General Assembly.

(*Signed*) Kate **O'Regan**

(*Signed*) Sinha **Basnayake**

(*Signed*) Jenny **Clift**

(*Signed*) Françoise **Nocquet**

(*Signed*) Geoffrey **Robertson**